



EMERGENCY MEDICAL TECHNICIAN INCIDENT INVESTIGATION, DETERMINATION OF ACTION, NOTIFICATION AND ADMINISTRATIVE HEARING PROCESS

PURPOSE

To establish a policy and procedure governing reportable situations and the evaluation and determination regarding whether or not disciplinary cause exists.

POLICY

Any information received from any source, including discovery through medical audit or routine follow-up on complaints, which suggests a violation of, or deviation from, state or local EMS laws, regulations, policies, procedures or protocols will be evaluated pursuant to this policy and consistent with the California Code of Regulations (CCR), Title 22, Division 9, Chapter 6.

AUTHORITY

California Health and Safety Code, Division 2.5, Chapter 4 and 5, the California Code of Regulations, Title 22, Chapter 6.

DEFINITIONS

Certificate - means a valid Emergency Medical Technician (EMT) certificate issued pursuant to Division 2.5 of the California Health and Safety Code.

Certifying entity - as used in this policy, means the medical director of the ICEMA or a public safety agency or the office of the State Fire Marshal if the agency has a training program for EMT personnel that is approved pursuant to the standards established in Section 1797.109 of the Health and Safety Code.

Certification Action - means those actions that may be taken by the ICEMA medical director that include denial, suspension, revocation of a certificate, or placing a certificate holder on probation.

Certificate Holder – for the purpose of this policy, shall mean the holder of a certificate, as that term is described above.

CCR – means the California Code of Regulations, Title 22, Division 9.

Discipline - means either a disciplinary plan taken by a relevant employer pursuant to Section 100206.2 of the CCR or certification action taken by a medical director pursuant to Section 100204 of the CCR, or both a disciplinary plan and certification action.

Disciplinary Cause - means an act that is substantially related to the qualifications, functions, and duties of an EMT and is evidence of a threat to the public health and safety, per Health and Safety Code Section 1798.200.

Disciplinary Plan - means a written plan of action that can be taken by a relevant employer as a consequence of any action listed in Section 1798.200 (c).

EMSA - State Emergency Medical Services Authority

Functioning outside of medical control - means any provision of prehospital emergency medical care which is not authorized by, or is in conflict with, any policies, procedures, or protocols established by ICEMA, or any treatment instructions issued by the base hospital providing immediate medical direction.

HSC - Health and Safety Code

Model Disciplinary Orders (MDO) - means the Recommended Guidelines for Disciplinary Orders and Conditions of Probation (EMSA document #134) which were developed to provide consistent and equitable discipline in cases dealing with disciplinary cause.

Notification of Defense - Notification sent to ICEMA by certificate holder that states certificate holder intends to defend actions through APA hearing process.

Prehospital emergency medical personnel - means those persons who have been certified/authorized/accredited as qualified to provide prehospital emergency medical care pursuant to Division 2.5, HSC.

Relevant employer(s) - means those ambulance services permitted by the Department of the California Highway Patrol or a public safety agency that the certificate holder works for or was working for at the time of the incident under review, as an EMT either as a paid employee or a volunteer.

PROCEDURE

Responsibilities of Relevant Employer

1. Under the provisions of the CCR and this policy, relevant employers:
 - a. May conduct investigations to determine disciplinary cause.
 - b. Upon determination of disciplinary cause, the relevant employer may develop and implement, a disciplinary plan, in accordance with the MDOs.

2. The relevant employer shall submit that disciplinary plan to ICEMA along with the relevant findings of the investigation related to disciplinary cause, within three (3) working days of adoption of the disciplinary plan.
3. The employer's disciplinary plan may include a recommendation that the medical director consider taking action against the holder's certificate to include denial of certification, suspension of certification, revocation of certification, or placing a certificate on probation.
4. The relevant employer shall notify the ICEMA medical director within three (3) working days after an allegation has been validated as potential for disciplinary cause.
5. The relevant employer shall notify the ICEMA medical director within three (3) working days of the occurrence of any of following:
 - a. The employee is terminated or suspended for a disciplinary cause,
 - b. The employee resigns or retires following notification of an impending investigation based upon evidence that would indicate the existence of a disciplinary cause, or
 - c. The employee is removed from employment-related duties for a disciplinary cause after the completion of the employer's investigation.

Jurisdiction of the ICEMA Medical Director

1. The medical director who issued the certificate, or in the case where the certificate was issued by a non-LEMSA certifying entity, the LEMSAs medical director that has jurisdiction in the county in which the headquarters of the certifying entity is located, shall conduct investigations to validate allegations for disciplinary cause when the EMT is not an employee of a relevant employer or the relevant employer does not conduct an investigation. Upon determination of disciplinary cause, the medical director may take certification action as necessary against a certificate holder.
2. The medical director may, upon determination of disciplinary cause and according to the provisions of this policy, take certification action against an EMT to deny, suspend, or revoke, or place a certificate holder on probation, upon the findings by the medical director of the occurrence of any of the actions listed in Health and Safety Code, Section 1798.200 (c) and for which any of the following conditions are true:
 - a. The relevant employer, after conducting an investigation, failed to impose discipline for the conduct under investigation, or the medical director makes a determination that discipline imposed by the relevant employer was not in accordance with the MDOs and the conduct of the certificate holder constitutes grounds for certification action.

- b. The medical director determines, following an investigation conducted in accordance with this policy, that the conduct requires certification action.
3. The medical director, after consultation with the relevant employer or without consultation when no relevant employer exists, may temporarily suspend, prior to a hearing, a certificate holder upon a determination of the following:
 - a. The EMT has engaged in acts or omissions that constitute grounds for revocation of the certificate; and
 - b. Permitting the EMT to continue to engage in certified activity without restriction poses an imminent threat to the public health and safety.
4. If the medical director takes any certification action, the medical director shall notify the State EMS Authority of the findings of the investigation and the certification action taken and shall enter said information into the state registry.

Evaluation of Information

1. A relevant employer who receives an allegation of conduct listed in Section 1798.200 (c) of the Health and Safety Code against a certificate holder and the allegation is validated, shall notify the medical director that has jurisdiction in the county in which the violation occurred, within three (3) working days, of the certificate holder's name, certification number, and the allegation(s).
2. When ICEMA receives a complaint against a certificate holder, ICEMA shall forward the original complaint and any supporting documentation to the relevant employer for investigation, if there is a relevant employer, within three (3) working days of receipt of the information. If there is no relevant employer or the relevant employer does not wish to investigate the complaint, the medical director shall evaluate the information received from a credible source, including but not limited to, information obtained from an application, medical audit, or public complaint, alleging or indicating the possibility of a threat to the public health and safety by the action of an applicant for, or holder of, a certificate issued by ICEMA or pursuant to Division 2.5, H&SC.
3. The relevant employer or medical director shall conduct an investigation of the allegations in accordance with the provisions of this policy, if warranted.

Investigations Involving Firefighters

1. The rights and protections described in Chapter 9.6 of the Government Code shall only apply to a firefighter during events and circumstances involving the performance of his or her official duties.

2. All investigations involving certificate holders who are employed by a public safety agency as a firefighter shall be conducted in accordance with Chapter 9.6 of the Government Code, Section 3250 et. seq.

Due Process

The certification action process shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Determination of Action

1. Certification action shall be taken as a result of the findings of the investigation.
2. Upon determining the disciplinary or certification action to be taken, the relevant employer or ICEMA medical director shall complete and place in the personnel file or any other file used for any personnel purposes by the relevant employer or ICEMA, a statement certifying the decision made and the date the decision was made. The decision must contain findings of fact and a determination of issues, together with the disciplinary plan and the date the disciplinary plan shall take effect.
3. In the case of a temporary suspension order pursuant to Section 100209 (c) of the CCR, it shall take effect upon the date the notice required by Section 100213 of the CCR is mailed to the certificate holder.
4. For all other certification actions, the effective date shall be thirty days from the date the notice is mailed to the applicant for, or holder of, a certificate unless another time is specified or an appeal is made.

Temporary Suspension Order

1. The ICEMA medical director may temporarily suspend a certificate prior to hearing if, the certificate holder has engaged in acts or omissions that constitute grounds for denial or revocation according to Section 100216(c) of the CCR and if in the opinion of the medical director permitting the certificate holder to continue to engage in certified activity would pose an imminent threat to the public health and safety.
2. Prior to, or concurrent with, initiation of a temporary suspension order of a certificate pending hearing, the medical director shall consult with the relevant employer of the certificate holder.
3. The notice of temporary suspension pending hearing shall be served by registered mail or by personal service to the certificate holder immediately, but no longer than three (3) working days from making the decision to issue the temporary suspension. The notice

shall include the allegations that allowing the certificate holder to continue to engage in certified activities would pose an imminent threat to the public health and safety. Within three (3) working days of the initiation of the temporary suspension by ICEMA, ICEMA and relevant employer shall jointly investigate the allegation in order for the ICEMA medical director to make a determination of the continuation of the temporary suspension.

- a. All investigatory information, not otherwise protected by the law, held by ICEMA and the relevant employer shall be shared between ICEMA, the relevant employer and the certificate holder via facsimile transmission or overnight mail relative to the decision to temporarily suspend.
- b. ICEMA shall serve within fifteen (15) calendar days an accusation pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code (Administrative Procedures Act).
- c. If the certificate holder files a Notice of Defense, the administrative hearing shall be held within thirty (30) calendar days of ICEMA's receipt of the Notice of Defense.
- d. The temporary suspension order shall be deemed vacated if ICEMA fails to serve an accusation within fifteen (15) calendar days or fails to make a final determination on the merits within fifteen (15) calendar days after the Administrative Law Judge (ALJ) renders a proposed decision.

Final Determination of Certification Action by the Medical Director

Upon determination of certification action following an investigation, and appeal of certification action pursuant to Section 100211.1 of the CCR, if the respondent chooses, the medical director may take the following final actions on an EMT certificate:

- a. Place the certificate holder on probation
- b. Suspension
- c. Denial
- d. revocation

Placement of a Certificate Holder on Probation

The ICEMA medical director may place a certificate holder on probation any time an infraction or performance deficiency occurs which indicates a need to monitor the certificate holder's conduct in the EMS system, in order to protect the public health and safety. The term of the probation and any conditions shall be in accordance with the MDOs. The ICEMA medical director may revoke the EMT certificate if the certificate holder fails to successfully complete the terms of probation.

Suspension of a Certificate

1. The medical director may suspend an individual's EMT certificate for a specified period of time for disciplinary cause in order to protect the public health and safety.
2. The term of the suspension and any conditions for reinstatement shall be in accordance with the MDOs.
3. Upon the expiration of the term of suspension, the individual's certificate shall be reinstated only when all conditions for reinstatement have been met. The medical director shall continue the suspension until all conditions for reinstatement have been met.
4. If the suspension period will run past the expiration date of the certificate, the EMT shall meet the recertification requirements for certificate renewal prior to the expiration date of the certificate.

Denial or Revocation of a Certificate

1. The medical director may revoke any EMT certificate for disciplinary cause that has been investigated and verified by application of this policy.
2. The ICEMA medical director shall deny any application for certification or revoke an EMT or Advanced EMT certificate if any of the following apply to the applicant:
 - a. Has committed any sexually related offense specified under Section 290 of the Penal Code.
 - b. Has been convicted of murder, attempted murder, or murder for hire.
 - c. Has been convicted of two (2) or more felonies.
 - d. Is on parole or probation for any felony.
 - e. Has been convicted and released from incarceration for said offense during the preceding fifteen (15) years for the crime of manslaughter or involuntary manslaughter.
 - f. Has been convicted and released from incarceration for said offense during the preceding ten (10) years for any offense punishable as a felony.

- g. Has been convicted of two (2) or more misdemeanors within the preceding five (5) years for any offense relating to the use, sale, possession, or transportation of narcotics or addictive or dangerous drugs.
 - h. Has been convicted of two (2) or more misdemeanors within the preceding five (5) years for any offense relating to force, threat, violence, or intimidation.
 - i. Has been convicted within the preceding five (5) years of any theft related misdemeanor.
- 3. The medical director may deny any application for certification or revoke an EMT or Advanced EMT certificate if any of the following apply to the applicant:
 - a. Has committed any act involving fraud or intentional dishonesty for personal gain within the preceding seven (7) years.
 - b. Is required to register pursuant to Section 11590 of the Health and Safety Code.
- 4. Subsection (a) and (b) above shall not apply to convictions that have been pardoned by the Governor, and shall only apply to convictions where the applicant/certificate holder was prosecuted as an adult. Equivalent convictions from other states shall apply to the type of offenses listed in (a) and (b). As used in this Section, “felony” or “offense punishable as a felony” refers to an offense for which the law prescribes imprisonment in the state prison as either an alternative or the sole penalty, regardless of the sentence the particular defendant received.
- 5. This Section shall not apply to those EMT’s who obtain their California EMT certificate prior to July 1, 2010; unless:
 - a. The certificate holder is convicted of any misdemeanor or felony after July 1, 2010.
 - b. The certificate holder committed any sexually related offense specified under Section 290 of the Penal Code.
 - c. The certificate holder failed to disclose to the certifying entity any prior convictions when completing his/her application for initial EMT certification or certification renewal. Nothing in this Section shall negate an individual’s right to appeal a denial of an EMT certificate pursuant to this policy.
- 6. Certification action by the ICEMA medical director shall be valid statewide and honored by all certifying entities for a period of at least twelve (12) months from the effective date of the certification action. An EMT whose application was denied or an EMT whose certification was revoked by the ICEMA medical director shall not be eligible for EMT application by any other certifying entity for a period of at least twelve (12) months from

the effective date of the certification action. EMT's whose certification is placed on probation must complete their probationary requirements with the EMS Agency that imposed the probation.

Notification of Final Decision of Certification Action

1. For the final decision of certification action, the ICEMA medical director shall notify the applicant/certificate holder and his/her relevant employer(s) of the certification action within ten (10) working days after making the final determination.
2. The notification of final decision shall be served by registered mail or personal service and shall include the following information:
 - a. The specific allegations or evidence which resulted in the certification action;
 - b. The certification action(s) to be taken, and the effective date(s) of the certification action(s), including the duration of the action(s);
 - c. Which certificate(s) the certification action applies to in cases of holders of multiple certificates;
 - d. A statement that the certificate holder must report the certification action within ten (10) working days to any other LEMSA and relevant employer in whose jurisdiction s/he uses the certificate.